

REMARKS/ARGUMENTS:

I. Introduction

Upon entry of the present amendment, claims 1, 3-8, 10-38, 41-42, 47, 49, 51, 53, 56-57, 59, 61, 63, and 66 will be pending in this application. Certain claims have been amended to clarify various aspects of the invention, and each amendment and its support is described in detail below. According to the reissue rules, Applicants have shown claim amendments with respect to the claims of the patent, but for the Examiner's ease of review, amendments to the claims made with respect to the *last response* have been marked in red ink.

Based on these amendments and the following remarks, Applicants respectfully request reconsideration and allowance of the pending claims.

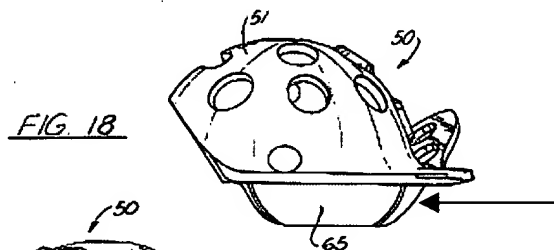
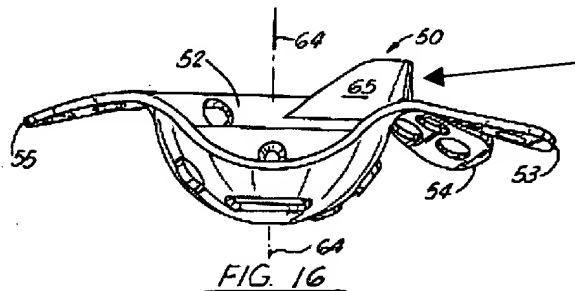
II. 35 U.S.C. § 112, first paragraph

The Examiner has rejected claims 1, 3-8, 10-38, 41, 42, 47, 49, 51, 53, 56, 57, 59, 61, 63, 66-69, 71, 73, 74, and 76 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. The Examiner states that the claims contain subject matter that was not described in the specification in such a way as to reasonably convey to one skilled in the art that the inventors had possession of the claimed invention.

A. Claims 1 and 13

The Examiner states that claim 1 implies that a second concave surface extends distally to a lesser extent "at other positions around the rim of the cup," whereas the buttress as originally disclosed extends only a partial distance around the rim of the cup, and the cup wall surface beyond the annular rim 52 appears to be convex rather than concave. Claim 1 has been amended to clarify that the concave surface described in (g) is actually a portion of

the concave surface of the cup body that extends distally – it is not the convex reverse portion. As shown particularly in Figures 16 and 18, the concave surface 65 extends distally to a greater extent adjacent the superior and posterior flanges than it does around the rest of the rim. Figures 16 and 18 of the pending application have been reproduced below, with arrows marking the portion of the concave surface of the cup body that is being referred to.

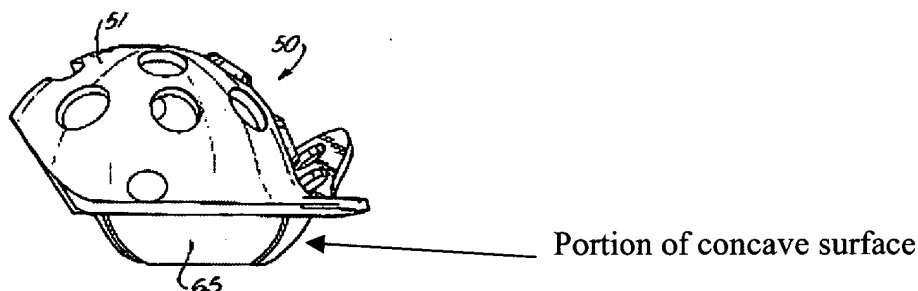


The Examiner asserts that a similar problem occurs in claim 13. The above explanation also applies to claim, and similar correction has been made to that claim as well.

B. Claims 14 and 23

Regarding claim 14, the Examiner asserts that because a rim that extends about a *periphery* of the *cup member* or *body* (claim 14, lines 4-5) and because the reverse curve portion 15 appears to define a *convex* distal surface portion (Figures 5 and 7), it is not seen how the original disclosure supports a further (or any) “concave surface of the *cup body wall*

extending *distally* to a greater extent adjacent the flange portion” (claim 14, lines 11-12; emphasis added). Claim 14 has been amended to clarify that the concave surface referred to is a *portion* of the concave surface of the cup body. In other words, the portion is an extension of the cup body and extends distally to a greater extent adjacent the flange, as is shown with an arrow below:

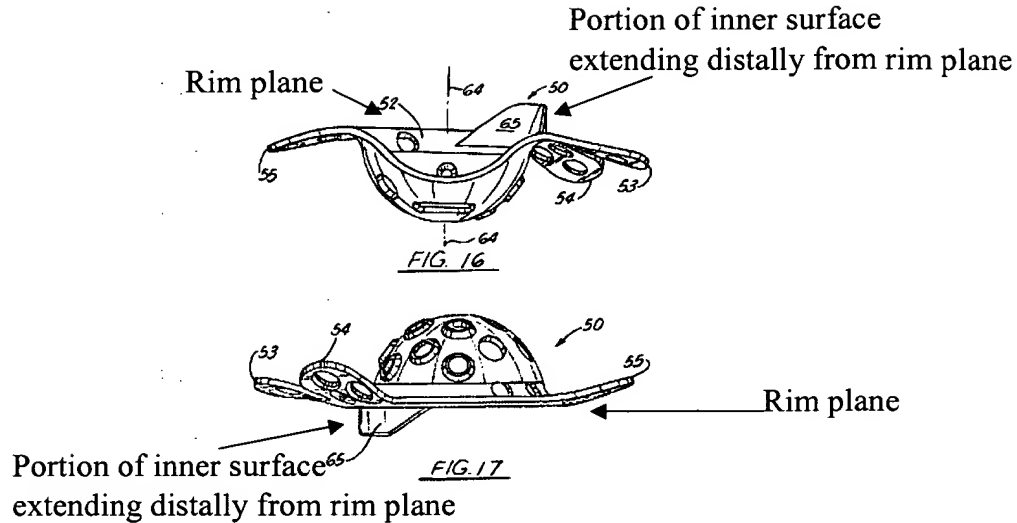


This same amendment has been made to claim 23, to which this analysis also applies.

C. Claim 35

The Examiner asserts that the rim extending about the *periphery* of the cup body (claim 35, lines 4-5) contradicts with portions *of the cup body* extending distally (or beyond) the rim and thus the periphery of the cup body (claim 35, last three lines). The Examiner claims that there are inconsistencies as to whether the broadly claimed buttress element 65 is part of the cup body (and hence part of the cup body periphery) or not.

Claim 35 has been amended to refer to “a portion of the inner concave surface of the cup body extending distally from the rim plane to a greater extent adjacent the superior and posterior flanges than at other positions around the rim of the cup body.” This feature is shown and described at least by Figures 16 and 17, reproduced below:

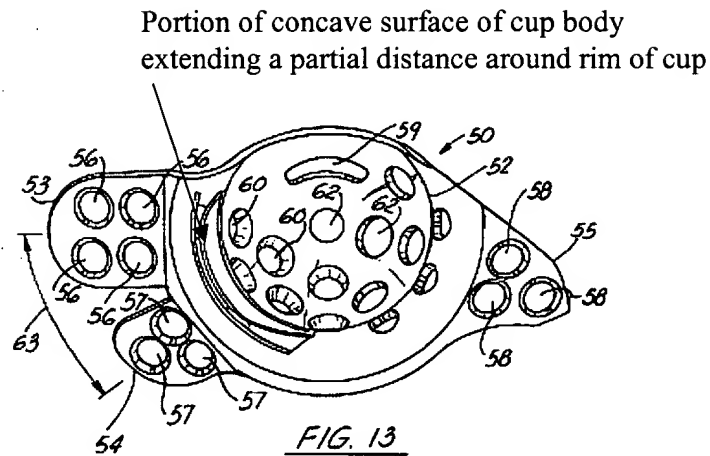


III. 35 U.S.C. § 112, second paragraph

The Examiner has rejected claims 1, 3-8, 10-38, 41, 42, 47, 49, 51, 53, 56, 57, 59, 61, 63, 66, and 74 under 35 U.S.C. § 112, second paragraph as being indefinite.

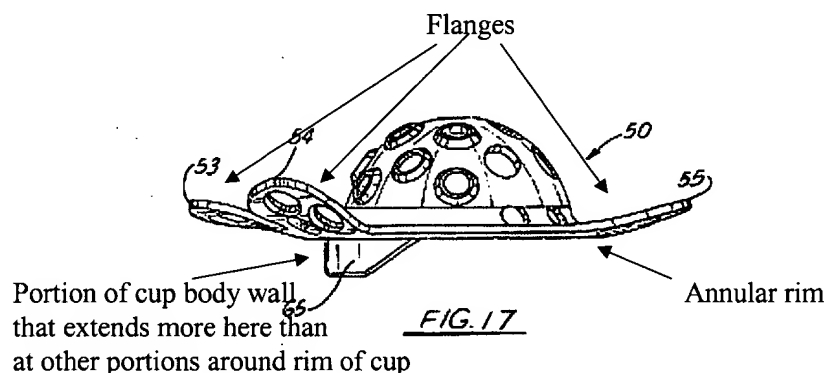
A. Claim 1

The Examiner states that with respect to claim 1, it is unclear whether “a concave surface on a distal side of the cup body” is the same as or different from “a concave surface of the cup body wall.” As discussed above, Applicants have amended claim 1 to clarify that “the concave surface” is actually “a portion of the concave surface of the cup body.” This amendment is believed to answer the Examiner’s questions. Support for this amendment appears in the specification at col. 3, lines 4-6 and col. 5, lines 1-2, where it is stated that a buttress may extend around the rim of cup body. Support also appears in the figures, which are considered a part of the specification. *See e.g.*, the figures reproduced above, *see also* Figure 13, where the concave surface of the cup body is shown extending distally around the rim of the cup body.



B. Claim 13

The Examiner states that since the annular rim defines the cup periphery (claim 13, line 5) and the flanges extend from *adjacent* the annular rim (claim 13, lines 7-10), it is not understood how the concave surface *of the cup body wall* could extend “distally to a greater extent” (claim 13, line 24); if the buttress were part of the cup body, then the annular rim would be displaced away from the superior and posterior flanges. Applicants are uncertain of what point the Examiner is intending to make. The annular rim, the flanges, and the portion of the cup body wall extending distally to a greater extent adjacent the superior and posterior flanges than at other portions around the rim of the cup are shown and labeled in the figure below.



C. Claims 14 and 23

The Examiner has asserted that claim 14 makes it unclear whether “an inner, distal concave surface” is the same as or different from “a concave surface of the cup body wall.” The Examiner also states that “the cup member” (both occurrences) and the “curved flange member” lack a proper antecedent basis. Appropriate correction has been made.

D. Claims 15, 16, 17, and 19-22

The Examiner asserts that “the cup member” lacks a proper antecedent basis. Appropriate correction has been made.

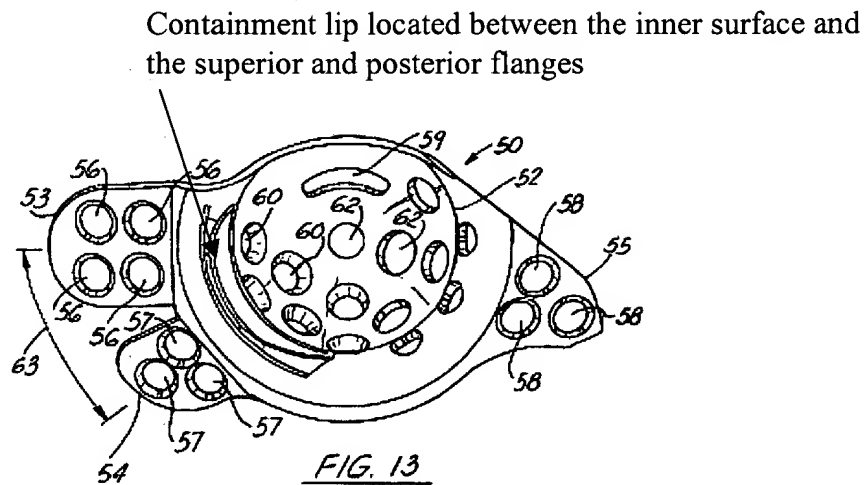
E. Claim 47

The Examiner states that “the cup member” lacks a proper antecedent basis. Appropriate correction has been made. The Examiner also states that it is not seen how the “secondary concave surface” can be a part of the cup body and yet extend *from* the cup body. The claims has been amended to recite “an extension of the cup body extending distally” in order to clarify that the extension is a part of the cup body.

F. Claim 56

The Examiner asks how the concave surface can extend distally *from* the device when the concave surface is claimed as being *part of* the device itself? Applicants do not understand the question. A person’s arm can be a part of the body, but still extend from the body. The same reasoning applies here. However, in an abundance of cooperation, Applicants have amended claim 56 to recite “a containment lip between the inner concave surface of the device and the superior and posterior flanges, extending a partial distance around the cup-shaped device.” Support for this amendment appears in the Figures, which

clearly show a structure that is used for containment of cement that is located between the inner concave surface of the device and the superior and posterior flanges, as well as in the specification at col. 5, lines 1-4.



The Examiner also submits that “concave surface” is indefinite as to which of the concave surfaces (lines 2 and 4) is being referenced; appropriate correction has been made by the above-described amendment. The examiner also asserts that on line 14, “register” should be replaced by --registers--. Appropriate correction has been made.

G. Claim 66 and 74

The Examiner states that “the fixation members” in claim 66 lacks a proper antecedent basis. Appropriate correction has been made. The Examiner states that “the diameter” in claim 74 lacks a proper antecedent basis. Claim 74 has been cancelled without prejudice

CONCLUSION

For at least the above reasons, Applicant respectfully requests allowance of claims 1, 3-8, 10-38, 41-42, 47, 49, 51, 53, 56-57, 59, 61, 63, and 66 and issuance of a patent containing these claims in due course. If there remain any additional issues to be addressed, the Examiner is invited to contact the undersigned attorney at 404.815.6147.

Respectfully submitted,



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